



May 8, 2014

The Honorable Barack H. Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

***RE: REQUEST FOR EMERGENCY ORDER ON THE RAIL
TRANSPORT OF CRUDE AND ETHANOL***

Dear Mr. President:

We are writing to you as the co-chairs of a rail safety coalition of local communities in the Chicago region that are traversed by freight rail lines. Thousands of carloads of hazmat, including crude oil and ethanol, pass through our cities and villages each day.

In the course of investigating several derailments involving catastrophic failures of tank cars transporting Bakken crude oil and ethanol, it has been discovered that Bakken crude oil has physical characteristics -- including its flash point and boiling point -- that cause it to be far more explosive than regulators and industry had previously believed. Indeed, testing has confirmed that the Bakken crude oil is more like gasoline in terms of explosiveness. Ethanol is highly flammable as well. In seven of eight derailments in the U.S. from 2006 through 2012 that involved catastrophic thermal fractures in which the tank car literally blew apart, the commodity involved was ethanol.

In response to the catastrophic tragedy in Lac Mégantic, Quebec in which 47 people were killed and where rebuilding and environmental mitigation costs are likely to exceed \$2 billion, both the Canadian government and the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation instituted regulatory proceedings to enhance the safety of transporting these commodities by rail. Those proceedings have focused both on the characteristics of the Bakken crude oil and the crashworthiness of the general purpose DOT-111 tank cars that are currently being used to transport this hazmat. This focus is grounded in the National Transportation Safety Board's warnings that stretch back over twenty years about the well-documented failures of the DOT-111 tank car in an accident or derailment scenario.

At the NTSB Forum, *Rail Safety: Transportation of Crude Oil and Ethanol*, held on April 22 and 23, 2014, the inadequacy of these DOT-111 tank cars, and even the supposedly improved CPC-1232 tank cars, was confirmed. Simply put, they are the wrong packaging for ensuring the safe transportation of highly explosive

Bakken-type crude oil and ethanol. Furthermore, the Forum detailed the insufficiency of the interim rail operating rules that decrease crude oil train speeds, ask the railroads to consider rerouting oil trains around 46 high-risk urban areas, and create a \$5 million railroad fund to train emergency personnel to respond to crude oil derailments. We whole heartedly endorse the overriding sentiment expressed at the forum by the NTSB and the AAR that neither the DOT-111 nor the CPC-1232 are safe enough to serve as the current and future design standard for the transport of crude oil and ethanol and agree with members of the NTSB that swift action is required to remove these dangerously deficient rail cars from hauling these commodities.

On April 23, the Canadian Minister of Transportation issued an emergency directive that, effective May 23, will ban over 5,000 tank cars from being used to transport hazardous goods within Canada. Those tank cars are particularly brittle because they lack continuous bottom reinforcement and are prone to stress fractures due to the thin steel in the walls. Because Canadian authorities have no jurisdiction to control the relocation of these cars, we are greatly concerned that these cars may be diverted into the United States and placed in the same service from which they have been removed in Canada, and that any such tank cars now operating in the U.S. will be allowed to continue in service for this volatile hazmat. If these tank cars present an imminent and urgent danger to Canadian citizens, they pose an identical threat to Americans.

We applaud the Canadian government's ban of the older versions of the DOT-111, but in light of the AAR's 2014 position, we continue to advocate for an immediate ban on the use of all DOT-111 and CPC-1232 tank cars from the transportation of crude and ethanol. We wish the same sense of urgency existed for American regulators.

Specifically, the recent FRA advisory urging shippers to "avoid the use of older, legacy DOT Specification 111 or CTC 111 tank cars" for the shipment of Bakken crude oil and further stating that shippers should use "railroad tank car designs with the highest level of integrity **reasonably available within their fleet**" to transport this explosive hazmat is wholly inadequate when it comes to protecting public safety. The bottom line is that all of the existing DOT-111 and CPC-1232 tank cars are not sufficiently crashworthy, although some models are better than others (with the absolute worst cars being the models that will be banned in Canada, but not in the United States, on May 23). Furthermore, because both crude oil and ethanol have been involved in fatal derailment accidents, the limited focus on only Bakken crude oil shipments is very shortsighted. In light of Canada's action, the issuance of a simple advisory by regulators is a grossly inadequate measure when it comes to protecting the thousands of American communities that have rail lines running through them.

At this point in time, we must -- at a minimum -- urge you to direct Secretary Foxx to exercise his jurisdiction, under 49 U.S.C. § 5121 and 49 U.S.C. § 20104, to issue an emergency order that will ban all cars currently banned in Canada as of May 23 from the transportation of both crude oil and ethanol within the United States. Any delay in issuing such an explicit ban will send a signal that the tank cars banned in Canada are acceptable shipping containers in the United States when they are eliminated from Canadian service. That result would be unconscionable.

Sincerely,



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Cc: The Honorable Anthony Foxx
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The Honorable Roger Wicker
The Honorable Tom Kaine
The Honorable Amy Klobuchar
The Honorable Heidi Heitkamp
The Honorable Patrick Toomey
The Honorable Sherwood Brown
The Honorable Peter Roskam
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The Honorable Rodney Davis
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